

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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VERIFIED COMPLAINT

C.H., mother and natural guardian of C.W and
C.H. Individually,

Case No.:

Plaintiff,

-against-

THE CITY OF NEW YORK & NEW YORK CITY
DEPARTMENT OF EDUCATION,

Defendants.

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PRELIMINARY STATEMENT

1. Plaintiff C.H. is the mother and natural guardian of C.W, a minor.
2. During the relevant dates referenced herein, the plaintiffs have resided in Staten Island, New York.
3. The defendants, the City of New York (hereinafter "City") and the New York City Department of Education (hereinafter "DOE") are municipal entities duly existing by virtue of the law of the City and State of New York.
4. The within action is brought to recover attorney's fees arising out of special education due process proceedings resolved in favor of the plaintiff in all material respects by the order of IHO Diane Ciccone (hereinafter "IHO") in impartial hearing case number 186558. The decision was rendered on December 9, 2019.
5. Plaintiff C.H. prevailed in all material respects in the impartial hearing proceeding which is the subject of this action.
6. The plaintiff is a prevailing party in the above-mentioned due process proceedings

and to date, the claim for legal fees has yet to be settled by defendants.

7. The within action is brought within the statute of limitations and is timely.

JURISDICTION AND VENUE

8. Jurisdiction is conferred upon this Court by the Individuals with Disabilities in Education Act (IDEA) at 20 U.S.C. §1400 et. seq., and more specifically 20 U.S.C. 1415(i)(3)(B).

9. Pursuant to 20 U.S.C. §1391(b) venue is proper in the United States District Court of New York, Eastern District.

STATEMENT OF FACTS

10. On June 18, 2019, a 10-day notice of unilateral placement was filed with the DOE notifying it that the parent would be unilaterally placing C.W. Thereafter, an impartial hearing complaint was filed alleging that defendants failed to provide FAPE to C.W.

11. During the impartial hearing proceedings, the defendants' District Representative defended the claim that the DOE provided FAPE to C.H. during the relevant school year(s) alleged in the impartial hearing complaint.

12. The IHO found that C.W. was denied FAPE in the complained of school year(s) and that the defendant(s) were required to fund her unilateral placement for the 2019-2020 school year. The IHO further ordered that the defendant(s) were required to provide C.W. with a transportation paraprofessional, and further, reimburse C.H. for costs of transportation until such time as the paraprofessional was implemented for C.W.

13. The plaintiff has exhausted all necessary administrative remedies prior to bringing this action for attorneys fees.

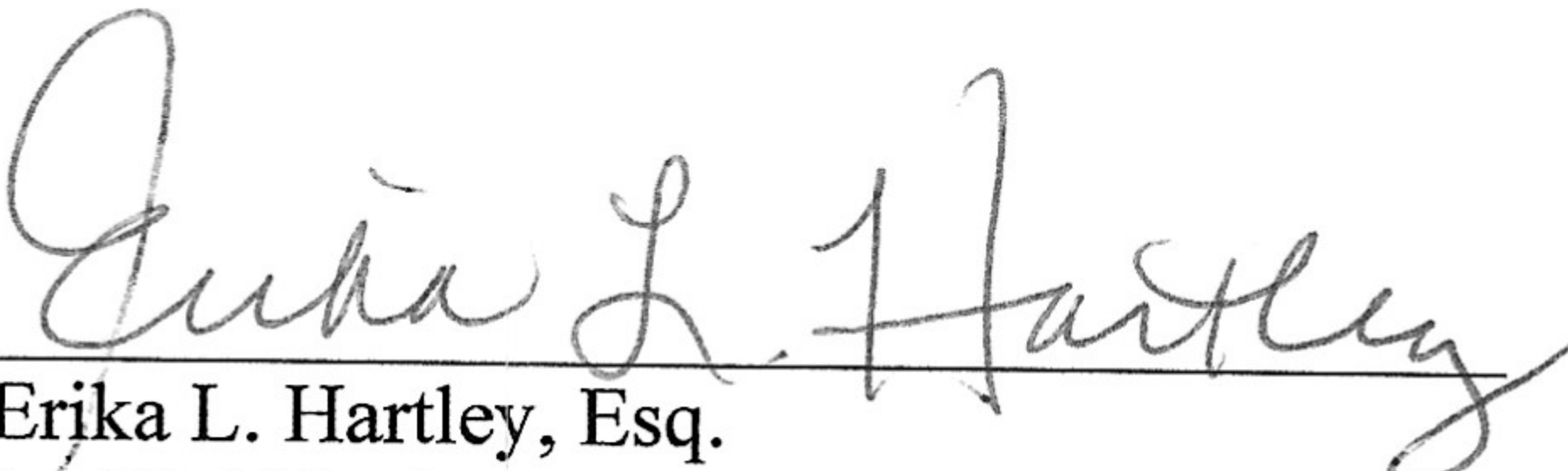
15. The plaintiff is a prevailing party in the underlying due process proceedings pursuant to 20 U.S.C. §1415(i)(3)(B). Plaintiff obtained favorable results in the underlying due process proceedings that were not occasioned by the defendant City's of DOE's voluntary change of conduct, but rather, was based on the determinations made in the impartial hearing decision by the IHO.

16. As plaintiff is a prevailing party in the underlying due process proceedings which are the subject of the instant litigation, legal fees should be awarded.

REQUESTS FOR RELIEF

17. The plaintiff, as a prevailing party in the underlying due process proceedings involving the defendants, requests that an award be issued in her favor for the costs of prosecuting and bringing this action, reasonable attorneys fees which have or will be incurred in the prosecution of this action and attorneys fees which have been incurred in the exhaustion of administrative remedies in the proceedings below pursuant to 20 U.S.C. §1415(i)(3)(B).

Dated: Brooklyn, New York
June 3, 2021



Erika L. Hartley, Esq.
LAW OFFICE OF ERIKA L. HARTLEY
Attorney for Plaintiffs
C.H. as m/n/g of C.W.
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To: JAMES E. JOHNSON, Corporation Counsel
Office of the Corporation Counsel
Attorneys for Defendants
THE CITY OF NEW YORK & NEW YORK CITY
DEPARTMENT OF EDUCATION
100 Church Street
New York, New York 10007

PLAINTIFF VERIFICATION

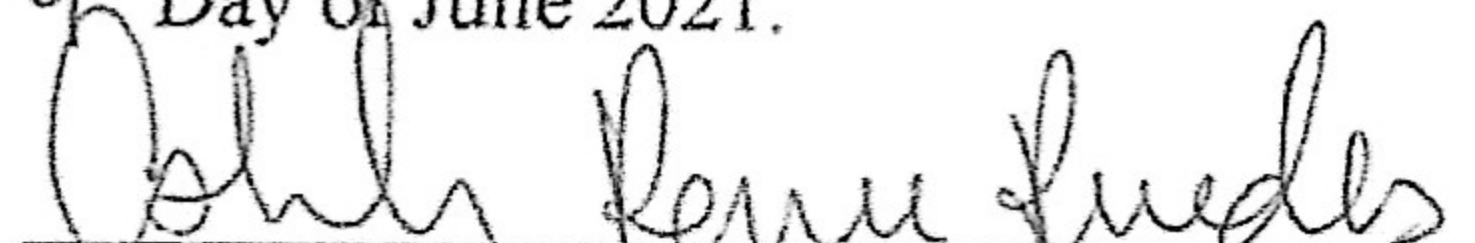
C.H. being duly sworn, deposes and states the following:

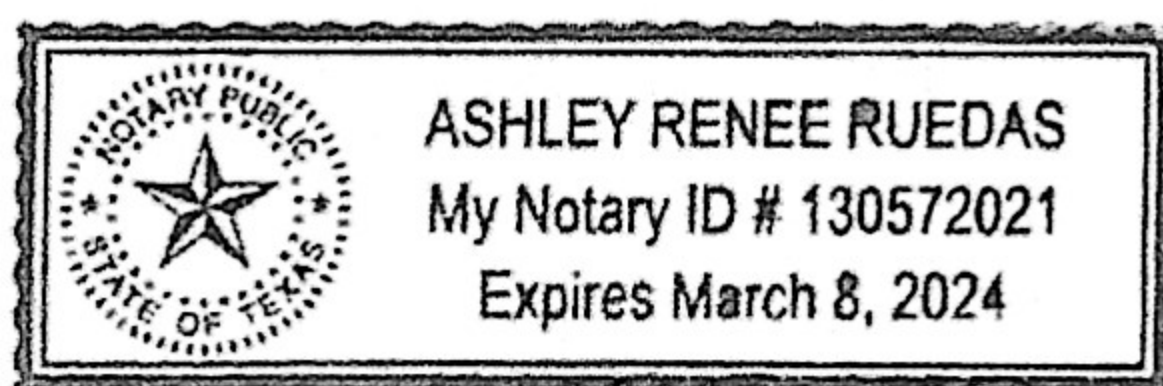
1. That I am the plaintiff in this federal court action.
2. I have read the verified complaint and know the contents thereof.
2. The allegations made in the verified complaint are based upon matters of which I have personal knowledge as to their truth, except as to those matters alleged upon information and belief, and as to those matters I believe them to be true.

Dated: Brooklyn, New York
June 3, 2021


C.H.

Sworn to before me this
9 Day of June 2021.


NOTARY PUBLIC



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EASTERN DISTRICT OF NEW YORK

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VERIFIED COMPLAINT

LAW OFFICE OF ERIKA L. HARTLEY

Attorneys for Plaintiffs

C.H. as m/n/g C.W. & C.H. Individually

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